

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DONALD ISAAC JOHNSON,

Plaintiff,

v.

STATE OF WASHINGTON,

Defendant.

CASE NO. C15-5488 RJB-KLS

ORDER TO SHOW CAUSE WHY
SANCTIONS SHOULD NOT BE
IMPOSED

Plaintiff Donald Isaac Johnson filed this civil rights complaint under 42 U.S.C. § 1983 *pro se*. Dkt. 1-1. His application to proceed *in forma pauperis* remains pending. Dkt. 1. Mr. Johnson alleges that he was unlawfully charged and convicted by the State of Washington in Pierce County Superior Court Case No. 12-1-01235-2. Mr. Johnson acknowledges that a habeas case regarding this conviction is presently pending in *Johnson v. Gilbert*, Case No. 15-5435 RBL-KLS. Dkt. 1-1, at 3. He contends, however, that in this action, he is suing the State of Washington for the unlawful imprisonment stemming from that conviction. He seeks “Four Hundred and Fifty Gazillion Dollars and One Cent.” *Id.*, at 5. Mr. Johnson is ordered to show cause why this Court should not impose monetary sanctions against him for vexatious and malicious filings.

1 Mr. Johnson has been repeatedly warned that he cannot proceed on a civil rights action
2 until and unless his conviction is overturned through habeas corpus. See *Heck v. Humphrey*, 512
3 U.S. 477, 487 (1994). A review of Mr. Johnson's litigation history shows that he obtained *in*
4 *forma pauperis* status and raised this issue on three previous occasions in: (1) *Johnson v.*
5 *Gildehaus*, Case No. 12-5818 RBL-KLS; (2) *Johnson v. State of Washington*, Case No. 12-5839
6 BHS-KLS; and (3) *Johnson v. State of Washington*, Case No. 12-5864 RBL-JRC. In *Johnson v.*
7 *Monroe Correctional Complex*, Case No. 13-5167 RBL-JRC, the Court denied Mr. Johnson's
8 application to proceed *in forma pauperis*, found his repetitive filings on this issue vexatious and
9 malicious, and warned Mr. Johnson that further improper filings could result in sanctions
10 (including monetary fines, dismissal of actions, and possibly a bar order preventing further
11 filings). Dkt. 3 in Case No. 13-5167 RBL-JRC. The Court dismissed the action without
12 prejudice so that the habeas petition pending at that time (*Johnson v. Monroe Correctional*
13 *Complex*, Case No. 13-5008 RBL-JRC) could proceed. *Id.* That habeas petition was dismissed
14 for lack of personal jurisdiction. Dkt. 16 in Case No. 13-5008 RBL-JRC.

15 Mr. Johnson filed a second petition for writ of habeas corpus in June 2016. The Court
16 granted his application to proceed *in forma pauperis* and directed that the petition be served.
17 Dkts. 4 and 7 in *Johnson v. Gilbert*, Case No. 15-5435 RBL-KLS. The petition remains pending.

18 On July 10, 2015, Mr. Johnson filed this action and an identical action in *Johnson v. State*
19 *of Washington*, Case No. 15-5483 BHS-DWC. As he has been repeatedly advised, Mr. Johnson
20 cannot bring a § 1983 action for damages related to his imprisonment unless and until his state
21 court judgment has been invalidated, expunged, or otherwise impugned. *Heck v. Humphrey*, 512
22 U.S. 477, 486-87 (1994). This has not occurred. Mr. Johnson must await the outcome of his
23 federal habeas proceeding which has not yet been adjudicated by this Court.
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1 Because he has been repeatedly advised and was explicitly warned that further filings of
2 this nature could result in sanctions including monetary fines, dismissal of actions, and possibly a
3 bar order preventing further filings, Mr. Johnson is ordered to show cause why the Court should
4 not impose sanctions in this case.

5 Accordingly, it is **ORDERED**:

6 (1) Mr. Johnson shall show cause **by August 24, 2015** why sanctions should not be
7 imposed in this case. If he fails to respond or to adequately address the issues raised herein, the
8 Court will recommend denial of his application to proceed in forma pauperis, dismissal of this
9 action as frivolous, and impose a monetary sanction in the amount of \$500.00 against Mr.
10 Johnson.

11 (2) The Clerk shall send a copy of this Order to Plaintiff and to Magistrate Judge
12 David W. Christel (Re: Case No. 15-5483 BHS-DWC).

13 **DATED** this 3rd day of August, 2015.

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15 Karen L. Strombom
16 United States Magistrate Judge
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